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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF WASHINGTON

LISA MARIE ROBERTS,

Petitioner,

v.

WILLIAM HOEFEL, Superintendent, Coffee  
Creek Correctional Facility,

Defendant.

Case No. C064204CV

AFFIDAVIT OF TRIAL COUNSEL WILLIAM S.  
BRENNAN

STATE OF OREGON     )  
                                  ) ss.  
County of Multnomah     )

I, William Brennan, being first duly sworn on oath, depose and say:

I am an attorney licensed to practice law in the State of Oregon, and in that capacity I represented Lisa Marie Roberts in *State of Oregon v. Lisa Marie Roberts*, Multnomah County Circuit Court Case No. 02-08-34931. I make this affidavit in response to petitioner's claim of inadequate assistance of trial counsel.

Paragraph 7 (A)

I did investigate this case. I hired Bob Cupit and Don Geistlinger to do the factual investigation and I also kept Ted Tolliver, who had been working on the case with Charles Smith; all with petitioner's consent. I also hired Mr. Hadley McCann, a polygraph expert, to



1 conduct a polygraph examination on petitioner and petitioner did not pass the polygraph. I had  
2 Ray Grimsbo, a criminalist, work on the case with me as well.

3 We went to the crime scene several times and I personally made several trips following  
4 the path that petitioner would have taken on the day of the murder. This was investigated by my  
5 investigator as well, so we knew the mileage, we knew when the cell phone calls were made by  
6 petitioner and the approximate locations from where the cell phone calls were made. A critical  
7 factor was that one cell phone call was made from fairly close to Kelly Point Park, where the  
8 deceased was found, and the State would have put on evidence that the cell tower that relayed  
9 that call showed the call was made near the tower in Vancouver, Washington, which would have  
10 been in the vicinity of Kelly Point Park and not from the Columbia River, which is also to the  
11 southwest of that tower.

12 We did have information about a possible person who saw another individual who may  
13 have been the deceased or her assailant and we did talk with several people about this. I believe  
14 it was Mr. Cupit and Mr. Geistlinger, possibly Mr. Tolliver, but the information obtained from  
15 this source did not exculpate petitioner.

16 We located Edna Ross in Sacramento, California, who would have had some information  
17 about the victim and her relationship with another individual who could have been the  
18 perpetrator of this offense. The connection was not strong, but we could have used this witness if  
19 we had gone to trial. There were other witnesses that we spoke to as well but these people mainly  
20 confirmed what it was that they said to the police.

21 Both Mr. Sweeney and I went over petitioner's case with her on numerous occasions and  
22 we went over everything we had done during the morning that she entered her plea. Petitioner  
23

1 knew what she was doing and I believe that she was satisfied with our performance and  
2 assistance at that time.

3 I did obtain the services of Dr. Jake Cooley and he did evaluate petitioner for mitigation  
4 purposes. This was provided to the District Attorney, and maybe to the court, because the  
5 sentence was agreed upon. It should be noted, that early in the case, petitioner was in a state of  
6 mind that she could not aid or assist, but she was later found by the court to be able to do so and  
7 we had Dr. Jake Cooley confirm this fact for us as well.

8 Mitigating evidence was presented to the District Attorney during plea negotiations and  
9 that is one of the main reasons we were able to get the charge reduced from Murder to  
10 Manslaughter. I believe the investigators not only spoke with Dr. Cooley, but they also spoke  
11 with some of petitioner's co-workers and Oregon National Guard members as well.

12 As I recall, this was a case where there was a very good and complete investigation into  
13 petitioner's background: that she had a good service record, she did well in her martial arts  
14 classes, was fairly successful in life and as a young girl was in a house when her sister was  
15 murdered. The District Attorney also knew that petitioner did not have a prior criminal record  
16 (with the exception of a traffic ticket) and that too was used as mitigation.

17 In her deposition, petitioner has some complaints and I will refer to the page and line  
18 numbers in her deposition. On page 5, lines 1-6, petitioner complains about the existence of a  
19 lady who saw a woman and a man arguing by a car. The investigators attempted to locate this  
20 exact person. We did locate an individual who recalled some of this, but the information we  
21 received was real vague and the person could not identify the victim in this case.

22 When petitioner discusses her lack of knowledge concerning her plea, deposition pages  
23 6-8, I believe she knew exactly what the plea involved and she knew what sentence she would

1 receive. Both Mr. Sweeney and I went over the plea petition with petitioner and review her  
2 options in great detail, including the possible sentences that she could receive. Mr. Sweeney and  
3 I also explained the efforts and conversations we had made with the District Attorney to obtain a  
4 more favorable result.

5 Petitioner's recollection about being ready for trial and going forward with a trial in this  
6 case until almost the last moment is correct. We explained to petitioner everything that a trial  
7 involved in detail. The State had been trying to get certain information regarding the cell towers,  
8 particularly the cell tower in west Vancouver, Washington. It was known all along that petitioner  
9 had made a call that was bounced off of that cell tower, but what was not known or provable  
10 until the last moment was that the location of the call could be pinpointed as to the direction it  
11 came from when the cell tower received the signal from the cell phone and the cell phone  
12 representative could testify to this information. I knew this to be correct because my  
13 investigators had found the same thing just about at the same time. Therefore, the District  
14 Attorney could and would have put petitioner close to Kelly Point Park at a point in time  
15 reasonably close to the time the victim was killed. This was something they were not really able  
16 to do until this point, but after it became apparent that this evidence would be offered to a jury,  
17 the defense team believed that the better option would be to try to make a deal on this case, and  
18 petitioner, though very upset, agreed.

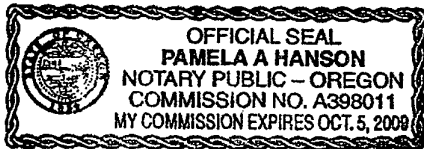
19 Basically, everything that could have been done for petitioner was done. Given all the  
20 evidence that was before me, there seemed to be a good possibility that petitioner could and  
21 would be convicted for Murder. There was a lot of circumstantial evidence that, if believed by a  
22 jury, could have led to that result.

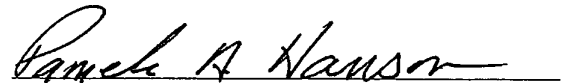
1 The possibilities and differences between the sentences for Murder as opposed to  
2 Manslaughter were clearly explained to petitioner and I believe she understood her options and  
3 she made a knowing and intelligent choice by entering her plea, although she was not pleased  
4 with the thought of spending time in prison.

5  
6 

7 William Brennan  
8 Attorney at Law

9 SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of May, 2007.



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13 Notary Public for Oregon  
14 My Commission Expires: Oct 5, 2009  
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